

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

TYWAN HYATT,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. CIV-10-1396-F
	)	
JAMES RUDEK, Warden,	)	
	)	
Respondent.	)	

**ORDER**

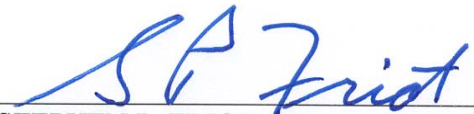
Petitioner, appearing *pro se*, has filed a petition for habeas relief under 28 U.S.C. § 2254, challenging his state court conviction on various federal constitutional grounds. On June 28, 2011, Magistrate Judge Valerie K. Couch filed a Report and Recommendation (the Report), recommending that the Amended Petition for Writ of Habeas Corpus (doc. no. 6) be denied as to the claims raised in ground five, on grounds of procedural default. The Report also recommended that consideration of the merits of the claims raised in grounds one through four of the petition be deferred, pending supplementation of the record and further briefing. (Report, doc. no. 14.) The Report advised the parties of their right to object and that failure to make timely objection to the Report waives the right to appellate review of both factual and legal issues contained in the Report. Neither party has filed an objection or asked for an extension of time within which to object.

With no objection having been filed, after review, the court hereby **ADOPTS**, **ACCEPTS** and **AFFIRMS** the Report of the Magistrate Judge. Accordingly, the Amended Petition for Writ of Habeas Corpus (doc no. 6) is **DENIED** as to the claims raised in ground five of the petition, on grounds of procedural default; and consideration of the merits of grounds one through four is deferred pending

supplementation of the record and supplemental briefing to be called for by the Magistrate Judge.

This action remains referred to the Magistrate Judge for purposes consistent with this order and the court's original referral order.

Dated this 3<sup>rd</sup> day of August, 2011.

  
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STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

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